

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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STATE FARM MUTUAL AUTOMOBILE INSURANCE  
COMPANY,

Case No.: CV 10-3848  
(ILG)(RML)

Plaintiff,

-against-

JOHN MCGEE,  
("McGee")

ADVANCED MEDICAL REHABILITATION, P.C.  
INTEGRATED MEDICAL REHABILITATION AND DIAGNOSTICS, P.C.,  
YELLOWSTONE MEDICAL REHABILITATION, P.C.,  
QUEENS-BROOKLYN MEDICAL REHABILITATION, P.C., and  
QUEENS BROOKLYN JEWISH MEDICAL REHABILITATION, P.C.,  
("PC Defendants")

MEDICAL MANAGEMENT AFFILIATED, LLC,  
FRESH MEADOWS MANAGEMENT, INC.,  
HJR MANAGEMENT, INC.,  
YELLOWSTONE MEDICAL MANAGEMENT, INC.,  
ALTERNATIVE PROGRAM QUEENS DIVISION, INC.,  
EXECUTIVE CORP.,  
SION MARKETING, INC., and  
LONDON BILLING & COLLECTIONS, INC.,  
("Management Entities")

EMILIO PAEZ,  
HUMBERTO ROMERO,  
SEMEN ILYAICH,  
SOFIYA BABADZHANOVA a/k/a SOFIYA ILYAICH, and  
MIKHAIL ILYAICH a/k/a MICHAEL ILYAICH,  
("True Owners")

Defendants.

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**ANSWER OF THE DEFENDANTS JOHN MCGEE, ADVANCED  
MEDICAL REHABILITATION, P.C., INTEGRATED MEDICAL  
REHABILITATION AND DIAGNOSTIC, P.C., YELLOWSTONE MEDICAL  
REHABILITATION, P.C., QUEENS-BROOKLYN MEDICAL REHABILITATION, P.C.  
and QUEENS BROOKLYN JEWISH MEDICAL REHABILITATION, P.C.**

Now come the Defendants John McGee, Advanced Medical Rehabilitation, P.C., Integrated Medical Rehabilitation and Diagnostic, P.C. and Yellowstone Medical Rehabilitation, P.C. (collectively “the Defendants”) and Answer the Plaintiff’s Complaint as follows:

1. The Defendants deny the allegations contained in paragraph 1 of the Plaintiff’s Complaint.
2. The Defendants deny the allegations contained in paragraph 2 of the Plaintiff’s Complaint.
3. The Defendants deny the allegations contained in paragraph 3 of the Plaintiff’s Complaint.
4. The Defendants deny the allegations contained in paragraph 4 of the Plaintiff’s Complaint.
5. The Defendants deny the allegations contained in paragraph 5 of the Plaintiff’s Complaint.
6. The Defendants admit the allegations contained in paragraph 6 of the Plaintiff’s Complaint.
7. The Defendants admit the allegations contained in paragraph 7 of the Plaintiff’s Complaint.
8. The Defendants admit the allegations contained in paragraph 8 of the Plaintiff’s Complaint.
9. The Defendants admit the allegations contained in paragraph 9 of the Plaintiff’s Complaint.
10. The Defendants deny the allegations contained in paragraph 10 of the Plaintiff’s Complaint as being a mischaracterization of and oversimplification of the applicable law.

11. The Defendants admit the allegations contained in paragraph 11 of the Plaintiff's Complaint.
12. The Defendants admit the allegations contained in paragraph 12 of the Plaintiff's Complaint.
13. The Defendants admit that McGee is a doctor of osteopathy and has been licensed since December 19, 1985 and deny the balance of the allegations contained in paragraph 13 of the Plaintiff's Complaint.
14. The Defendants deny the allegations contained in paragraph 14 of the Plaintiff's Complaint to the extent they plead any facts.
15. The Defendants deny the allegations contained in paragraph 15 of the Plaintiff's Complaint.
16. The Defendants deny the allegations contained in paragraph 16 of the Plaintiff's Complaint.
17. The Defendants deny the allegations contained in paragraph 17 of the Plaintiff's Complaint.
18. The Defendants deny the allegations contained in paragraph 18 of the Plaintiff's Complaint.
19. The Defendants deny the allegations contained in paragraph 19 of the Plaintiff's Complaint.
20. The Defendants deny the allegations contained in paragraph 20 of the Plaintiff's Complaint.
21. The Defendants deny the allegations contained in paragraph 21 of the Plaintiff's Complaint.

22. The Defendants deny the allegations contained in paragraph 22 of the Plaintiff's Complaint.

23. The Defendants deny the allegations contained in paragraph 23 of the Plaintiff's Complaint.

24. The Defendants deny the allegations contained in paragraph 24 of the Plaintiff's Complaint.

25. The Defendants deny the allegations contained in paragraph 25 of the Plaintiff's Complaint.

26. The Defendants deny the allegations contained in paragraph 26 of the Plaintiff's Complaint.

27. The Defendants admit the allegations contained in paragraph 27 of the Plaintiff's Complaint.

28. The Defendants admit the allegations contained in paragraph 28 of the Plaintiff's Complaint.

29. The Defendants admit the allegations contained in paragraph 29 of the Plaintiff's Complaint.

30. The Defendants deny the allegations contained in paragraph 30 of the Plaintiff's Complaint.

31. The Defendants deny the allegations contained in paragraph 31 of the Plaintiff's Complaint.

32. The Defendants deny the allegations contained in paragraph 32 of the Plaintiff's Complaint.

33. The Defendants deny the allegations contained in paragraph 33 of the Plaintiff's Complaint.

34. The Defendants deny the allegations contained in paragraph 34 of the Plaintiff's Complaint.

35. The Defendants deny the allegations contained in paragraph 35 of the Plaintiff's Complaint.

36. The Defendants admit the allegations contained in paragraph 36 of the Plaintiff's Complaint to the extent that a copy of the Recommended Policy is attached to the Plaintiff's Complaint, the balance of the allegations are denied.

37. The Defendants deny the allegations contained in paragraph 37 of the Plaintiff's Complaint.

38. The Defendants deny the allegations contained in paragraph 38 of the Plaintiff's Complaint.

39. The Defendants deny the allegations contained in paragraph 39 of the Plaintiff's Complaint.

40. The Defendants deny the allegations contained in paragraph 40 of the Plaintiff's Complaint.

41. The Defendants deny the allegations contained in paragraph 41 of the Plaintiff's Complaint.

42. The Defendants deny the allegations contained in paragraph 42 of the Plaintiff's Complaint.

43. The Defendants deny the allegations contained in paragraph 43 of the Plaintiff's Complaint.

44. The Defendants deny the allegations contained in paragraph 44 of the Plaintiff's Complaint.

45. The Defendants deny the allegations contained in paragraph 45 of the Plaintiff's Complaint.

46. The Defendants deny the allegations contained in paragraph 46 of the Plaintiff's Complaint.

47. The Defendants deny the allegations contained in paragraph 47 of the Plaintiff's Complaint.

48. The Defendants deny the allegations contained in paragraph 48 of the Plaintiff's Complaint.

49. The Defendants deny the allegations contained in paragraph 49 of the Plaintiff's Complaint.

50. The Defendants deny the allegations contained in paragraph 50 of the Plaintiff's Complaint.

51. The Defendants admit the allegations contained in paragraph 51 of the Plaintiff's Complaint.

52. The Defendants deny the allegations contained in paragraph 52 of the Plaintiff's Complaint.

53. The Defendants deny the allegations contained in paragraph 53 of the Plaintiff's Complaint.

54. The Defendants deny the allegations contained in paragraph 54 of the Plaintiff's Complaint.

55. The Defendants deny the allegations contained in paragraph 55 of the Plaintiff's Complaint.

56. The Defendants deny the allegations contained in paragraph 56 of the Plaintiff's Complaint.

57. The Defendants deny the allegations contained in paragraph 57 of the Plaintiff's Complaint.

58. The Defendants deny the allegations contained in paragraph 58 of the Plaintiff's Complaint.

59. The Defendants deny the allegations contained in paragraph 59 of the Plaintiff's Complaint.

60. The Defendants deny the allegations contained in paragraph 60 of the Plaintiff's Complaint.

61. The Defendants deny the allegations contained in paragraph 61 of the Plaintiff's Complaint.

62. The Defendants deny the allegations contained in paragraph 62 of the Plaintiff's Complaint.

63. The Defendants deny the allegations contained in paragraph 63 of the Plaintiff's Complaint.

64. The Defendants deny the allegations contained in paragraph 64 of the Plaintiff's Complaint insofar as they allege any attestation of medical necessity.

65. The Defendants deny the allegations contained in paragraph 65 of the Plaintiff's Complaint.

66. The Defendants deny the allegations contained in paragraph 66 of the Plaintiff's Complaint.

67. The Defendants deny the allegations contained in paragraph 67 of the Plaintiff's Complaint.

68. The Defendants admit the allegations contained in paragraph 68 of the Plaintiff's Complaint.

69. The Defendants admit the allegations contained in paragraph 69 of the Plaintiff's Complaint.

70. The Defendants admit the allegations contained in paragraph 70 of the Plaintiff's Complaint.

71. The Defendants admit that McGee resides in and is a citizen of New York and that he is licensed to and practices medicine in New York. Defendants deny the balance of the allegations contained in paragraph 71 of the Plaintiff's Complaint.

72. The Defendants deny the allegations contained in paragraph 72 of the Plaintiff's Complaint.

73. The Defendants deny the allegations contained in paragraph 73 of the Plaintiff's Complaint.

74. The Defendants deny the allegations contained in paragraph 74 of the Plaintiff's Complaint.

75. The Defendants deny the allegations contained in paragraph 75 of the Plaintiff's Complaint.

76. The Defendants deny the allegations contained in paragraph 76 of the Plaintiff's Complaint.



77. The Defendants deny the allegations contained in paragraph 77 of the Plaintiff's Complaint.

78. The Defendants deny the allegations contained in paragraph 78 of the Plaintiff's Complaint.

79. The Defendants deny the allegations contained in paragraph 79 of the Plaintiff's Complaint.

80. The Defendants deny the allegations contained in paragraph 80 of the Plaintiff's Complaint.

81. The Defendants deny the allegations contained in paragraph 81 of the Plaintiff's Complaint.

82. The Defendants deny the allegations contained in paragraph 82 of the Plaintiff's Complaint.

83. The Defendants deny the allegations contained in paragraph 83 of the Plaintiff's Complaint.

84. The Defendants deny the allegations contained in paragraph 84 of the Plaintiff's Complaint.

85. The Defendants deny the allegations contained in paragraph 85 of the Plaintiff's Complaint.

86. The Defendants deny the allegations contained in paragraph 86 of the Plaintiff's Complaint.

87. The Defendants deny the allegations contained in paragraph 87 of the Plaintiff's Complaint.

88. The Defendants deny the allegations contained in paragraph 88 of the Plaintiff's Complaint.

89. The Defendants deny the allegations contained in paragraph 89 of the Plaintiff's Complaint.

90. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

91. The Defendants admit there is a case and controversy, the Defendants deny the balance of the allegations contained in paragraph 91 of the Plaintiff's Complaint.

92. The Defendants deny the allegations contained in paragraph 92 of the Plaintiff's Complaint.

93. The Defendants deny the allegations contained in paragraph 93 of the Plaintiff's Complaint.

94. The Defendants deny the allegations contained in paragraph 94 of the Plaintiff's Complaint.

95. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

96. The Defendants admit there is a case and controversy, the Defendants deny the balance of the allegations contained in paragraph 96 of the Plaintiff's Complaint.

97. The Defendants deny the allegations contained in paragraph 97 of the Plaintiff's Complaint.

98. The Defendants deny the allegations contained in paragraph 98 of the Plaintiff's Complaint.

99. The Defendants deny the allegations contained in paragraph 99 of the Plaintiff's Complaint.

100. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

101. The Defendants admit there is a case and controversy, the Defendants deny the allegations contained in paragraph 101 of the Plaintiff's Complaint.

102. The Defendants deny the allegations contained in paragraph 102 of the Plaintiff's Complaint.

103. The Defendants deny the allegations contained in paragraph 103 of the Plaintiff's Complaint.

104. The Defendants deny the allegations contained in paragraph 104 of the Plaintiff's Complaint.

105. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

106. The Defendants deny the allegations contained in paragraph 106 of the Plaintiff's Complaint.

107. The Defendants deny the allegations contained in paragraph 107 of the Plaintiff's Complaint.

108. The Defendants deny the allegations contained in paragraph 108 of the Plaintiff's Complaint.

109. The Defendants deny the allegations contained in paragraph 109 of the Plaintiff's Complaint.

110. The Defendants deny the allegations contained in paragraph 110 of the Plaintiff's Complaint.

111. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

112. The Defendants deny the allegations contained in paragraph 112 of the Plaintiff's Complaint.

113. The Defendants deny the allegations contained in paragraph 113 of the Plaintiff's Complaint.

114. The Defendants deny the allegations contained in paragraph 114 of the Plaintiff's Complaint.

115. The Defendants deny the allegations contained in paragraph 115 of the Plaintiff's Complaint.

116. The Defendants deny the allegations contained in paragraph 116 of the Plaintiff's Complaint.

117. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

118. The Defendants deny the allegations contained in paragraph 118 of the Plaintiff's Complaint.

119. The Defendants deny the allegations contained in paragraph 119 of the Plaintiff's Complaint.

120. The Defendants deny the allegations contained in paragraph 120 of the Plaintiff's Complaint.

121. The Defendants deny the allegations contained in paragraph 121 of the Plaintiff's Complaint.

122. The Defendants deny the allegations contained in paragraph 122 of the Plaintiff's Complaint.

123. The Defendants deny the allegations contained in paragraph 123 of the Plaintiff's Complaint.

124. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

125. The Defendants deny the allegations contained in paragraph 125 of the Plaintiff's Complaint.

126. The Defendants deny the allegations contained in paragraph 126 of the Plaintiff's Complaint.

127. The Defendants deny the allegations contained in paragraph 127 of the Plaintiff's Complaint.

128. The Defendants deny the allegations contained in paragraph 128 of the Plaintiff's Complaint.

129. The Defendants deny the allegations contained in paragraph 129 of the Plaintiff's Complaint.

130. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

131. The Defendants deny the allegations contained in paragraph 131 of the Plaintiff's Complaint.

132. The Defendants deny the allegations contained in paragraph 132 of the Plaintiff's Complaint.

133. The Defendants deny the allegations contained in paragraph 133 of the Plaintiff's Complaint.

134. The Defendants deny the allegations contained in paragraph 134 of the Plaintiff's Complaint.

135. The Defendants deny the allegations contained in paragraph 135 of the Plaintiff's Complaint.

136. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

137. The Defendants deny the allegations contained in paragraph 137 of the Plaintiff's Complaint.

138. The Defendants deny the allegations contained in paragraph 138 of the Plaintiff's Complaint.

139. The Defendants deny the allegations contained in paragraph 139 of the Plaintiff's Complaint.

140. The Defendants deny the allegations contained in paragraph 140 of the Plaintiff's Complaint.

141. The Defendants deny the allegations contained in paragraph 141 of the Plaintiff's Complaint.

142. The Defendants deny the allegations contained in paragraph 142 of the Plaintiff's Complaint.

143. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

144. The Defendants deny the allegations contained in paragraph 144 of the Plaintiff's Complaint.

145. The Defendants deny the allegations contained in paragraph 145 of the Plaintiff's Complaint.

146. The Defendants deny the allegations contained in paragraph 146 of the Plaintiff's Complaint.

147. The Defendants deny the allegations contained in paragraph 147 of the Plaintiff's Complaint.

148. The Defendants deny the allegations contained in paragraph 148 of the Plaintiff's Complaint.

149. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

150. The Defendants deny the allegations contained in paragraph 150 of the Plaintiff's Complaint.

151. The Defendants deny the allegations contained in paragraph 151 of the Plaintiff's Complaint.

152. The Defendants deny the allegations contained in paragraph 152 of the Plaintiff's Complaint.

153. The Defendants deny the allegations contained in paragraph 153 of the Plaintiff's Complaint.

154. The Defendants deny the allegations contained in paragraph 154 of the Plaintiff's Complaint.

155. The Defendants repeat and restate each and every answer contained in the above paragraphs as if each were fully and separately restated herein.

156. The Defendants deny the allegations contained in paragraph 156 of the Plaintiff's Complaint.

157. The Defendants deny the allegations contained in paragraph 157 of the Plaintiff's Complaint.

158. The Defendants deny the allegations contained in paragraph 158 of the Plaintiff's Complaint.

159. The Defendants deny the allegations contained in paragraph 159 of the Plaintiff's Complaint.

160. The Defendants deny the allegations contained in paragraph 160 of the Plaintiff's Complaint.

161. The Defendants deny the allegations contained in paragraph 161 of the Plaintiff's Complaint.

#### **FIRST AFFIRMATIVE DEFENSE**

The Plaintiffs' Complaint fails to state a claim upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

The Plaintiffs' Complaint is barred by the Statute of Frauds.



**THIRD AFFIRMATIVE DEFENSE**

The Plaintiffs' Complaint is barred by the applicable Statutes of Limitations.

**FOURTH AFFIRMATIVE DEFENSE**

The Plaintiffs' Complaint is barred by the applicable Statute of Repose.

**FIFTH AFFIRMATIVE DEFENSE**

The Plaintiffs' Complaint is barred by the doctrine of laches.

**SIXTH AFFIRMATIVE DEFENSE**

The Plaintiffs' Complaint is barred by the doctrine of unclean hands.

**SEVENTH AFFIRMATIVE DEFENSE**

The Plaintiffs' Complaint is barred by the doctrine of equitable estoppel.

**EIGHTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred by the doctrine of res judicata.

**NINTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred by the doctrine of collateral estoppel.

**TENTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred by the doctrine of claim preclusion.

**ELEVENTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred by the doctrine of issue preclusion.

**TWELFTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred from recovery for lack of privity.

**THIRTEENTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred from recovery as they have failed to satisfy a necessary jurisdictional prerequisite.

**FOURTEENTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred from recovery by the doctrine of waiver.

**FIFTEENTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred from recovery by the doctrine of offer and compromise.

**SIXTEENTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred from recovery as they have failed to comply with the rules and regulations of the State of New York pertaining to no-fault insurance coverage.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred from recovery as any damages suffered have been recouped through subrogation.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred from recovery as any damages suffered have been passed through to insureds through the adjustment of insurance rates as reported to the New York Insurance Department.

**DEFENDANT DEMANDS A TRIAL BY JURY.**

WHEREFORE, the Defendants respectfully pray that the Court dismiss the Plaintiff's Complaint and award it judgment, costs and whatever further relief the Court deems appropriate.

Respectfully submitted,

The Defendants  
John McGee  
Advanced Medical Rehabilitation, P.C.  
Integrated Medical Rehabilitation and Diagnostics P.C.  
Yellowstone Medical Rehabilitation, P.C.  
Queens-Brooklyn Medical Rehabilitation, P.C.  
Queens Brooklyn Jewish Medical Rehabilitation, P.C.  
By Counsel

/s/ Matthew J. Conroy  
Matthew J. Conroy (MC 9014)  
Maria Campese Diglio (MC 5350)  
MATTHEW J. CONROY & ASSOCIATES, P.C.  
350 Old Country Road – Suite 106  
Garden City, New York 11530  
(516) 248-2425

Dated: November 01, 2010

CERTIFICATE OF SERVICE

I, Matthew J. Conroy do hereby certify that a true and accurate copy of the foregoing pleading was served upon all counsel of record by ECF and US Mail 1<sup>st</sup> Class postage prepaid this 1st day of November 2010.

/s/ Matthew J. Conroy  
Matthew J. Conroy